

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on August 13, 2008 has been entered.

2. The following is a Non-Final Office action in response to communications received August 13, 2008. Claim 1 has been amended. Claims 4-5, 7, 10-11 are cancelled. Claims 1-3, 6, 8-9 are now pending.

### ***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-2, 6, and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benson 6360658 in view of Maggio 6167807 and further in view of Hovsepian 4162010.

Re claim 1, Benson discloses a process for the top surface decoration of a cosmetic product in a container, comprising inserting and slightly compressing a face provided with shapes of a pad of a yielding material into the decorating product

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contained in said cavity so as to make said parts of said decorating product adhere to said shapes of the pad and moving the pad from the base to a position above the cosmetic product in the container (see figure 3, column 1 lines 11-16), positioning and slightly compressing the pad onto the top surface of the cosmetic product in the container in order to leave on it said parts of said decorating product (column 1 lines 35-41), and removing the pad from the cosmetic product in the container in order to leave the cosmetic product provided with decorations corresponding to said parts of said decorating product (see figure 4, column 5 lines 15-24).

However, Benson does not positively disclose the following limitations as taught by Maggio: a powder form cosmetic product (column 4 lines 27-40).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Benson's invention in view of Maggio in order to provide a container containing article that are safe and nontoxic for use in transferring an image onto a second article as taught by Maggio (column 2 lines 6-10). In addition, it would have been equally obvious to one of ordinary skill in the art at the time of the invention that Benson's stamp function is to transfer a quantity of the cosmetic product residing upon an symbol embossment or pad to any surfaces or medium such as paper, cloth, container's surfaces or the like.

Furthermore, Benson in view of Maggio does not positively disclose the following limitations as taught by Hovsepien: filling of a non-shaped cavity in a base with a powder form decorating product and leveling of the decorating product at the top of said cavity (see figures 3-6, column 2 lines 47-51).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Benson in view of Maggio invention and further in view of Hovsepian in order to provide packaging field arrangement for sealing a container of cosmetic powder to prevent the powder from spilling as taught by Hovsepian (column 1 lines 6-19).

Re claim 2, Benson in view of Maggio and further in view of Hovsepian discloses the invention as discussed above. In addition, Benson discloses the shapes project out of face of the pad in larger measure than the depth of cavity (column 5 lines 15-24 and Figure 3).

Re claims 6 and 8, Benson in view of Maggio and further in view of Hovsepian discloses the invention as discussed above. In addition, Maggio discloses powder decorating products of different colors (columns 4 lines 27-40). Moreover, it would have been obvious to one of ordinary skill in the art at the time of the invention to repeat the steps, since reproducing identical steps with the same outcome involves only routine skill in the art. Furthermore, with respect to the desired color, it would have been obvious to use any known color as an obvious matter of design choice as applicant has not provided any criticality for the desired color.

5. Claims 3 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benson 6360658 in view of Maggio 6167807 in view of Hovsepian 4162010 and further in view of Imamaki 6000335.

Re claim 3, Benson in view of Maggio and further in view of Hovsepian discloses the invention as discussed above

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However, Benson in view of Maggio and further in view of Hovsepian does not positively disclose the following limitation as taught by Imamaki: pad is made of silicon resin (column 2 lines 5-6).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Benson in view of Maggio in view of Hovsepian invention and further i.v, Imamaki in order to prevent an adhesion of original pattern of an original sheet to a stamp member as taught by Imamaki (column 1 lines 40-42).

Re claim 9, Benson in view of Maggio in view of Hovsepian and further in view of Imamaki discloses the invention as discussed above. In addition, Maggio discloses powder decorating products of different colors (columns 4 lines 27-40). Moreover, with respect to the desired color, it would have been obvious to use any known color as an obvious matter of design choice as applicant has not provided any criticality for the desired color.

### ***Response to Arguments***

6. Applicant's arguments with respect to claims 1-3, 6, 8-9 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure as per the attached Notice of References Cited.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ALVIN L. CARLOS whose telephone number is

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(571)270-3077. The examiner can normally be reached on 7:30am-5:00pm EST Mon-Fri (alternate Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on (571)272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Alvin L Carlos/  
Examiner, Art Unit 3715  
October 22, 2008

/Cameron Saadat/  
Primary Examiner, Art Unit 3715